

Town of Lunenburg

Conservation Commission

MINUTES

November 18, 2015

7:00 PM

Ritter Memorial Building

960 Massachusetts Avenue

Richard Bursch, Tom Bertram, Todd Dwyer, Jack Rabbitt, Brad Kennedy, Carl Luck, Ken Jones, Matt Marro, Jan Carrier

CALL TO ORDER ~ 7:00 PM

PUBLIC COMMENT- *Commissioner Bertram spoke about the trails conference on November 14th. He spoke about the Americorps program and how they can come in and do volunteer labor and will contribute expertise on a volunteer basis. He also noted a module about building trail partnerships based on a case study in Maine that focused mostly on ATV's. Mr. Marro outlined the module he went to regarding ADA access and working with Commission's he noted that materials from the conference will be made available on the town website.*

Commissioner Luck noted that he would like the commission to be able to participate in a process of hiring for Jan Carrier's replacement.

HEARINGS

392 Sunset Lane ~ Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws there will be a public hearing on a Request for Determination of Applicability filed by Carl Luck. The proposed project is for repair to a retaining wall within the 30' No Touch Zone. Rescheduled from 11/4.

Mr. Luck outlined the work involved in what was done on the work between the ties and the repair and replacement of the materials on the wall and noted an amount of 2 square feet of disturbance. He did not realize that even though the state exempted the work the By Law still required a filing. Mr. Marro noted he had seen the work and had no comment.

Commissioner Rabbit asked the applicant about perhaps amending the file to include replacing the entire wall to allow for work without having to file for subsequent hearings. Mr. Luck said not at this time as the wall is in good condition and was not sure if he was going to continue to retain ownership. There were no questions from the public.

Mr. Bertram moved to issue a negative determination. Mr. Rabbit seconded and the Commission approved unanimously.

324 Mulpus Road ~ Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws there will be a continuation of a public hearing on a Notice of Intent filed by Thomas Christopher of Christopher Environmental Associates. The proposed project is for removal of trees within the Riverfront Buffer Zone and restoration work.

Tom Christopher outlined the discussion from the last meeting and noted the continuance was needed to wait for a determination from NHESP. He noted that NHESP issued a determination allowing the work as outlined in the Notice of Intent. He noted that DEP requested that an alternatives analysis be submitted to the Commission as the work technically is in riverfront. He outlined that the alternatives involved actual crossing of the stream and was not feasible. They also wanted a narrative on bank disturbance. DEP also requested that the floodplain be examined to see if there would be any change in the 10 year flood plain. He noted there would be no change. They also inquired about a planting plan and a planting detail list which the applicant has provided. Also, took the Chair's suggestion about biodiversity and moved the fencing back to meet the 30 foot no touch zone.

The Chair noted he felt the concerns have been met and suggested that sweet gum trees should be monitored. There were no questions from the commission.

Mr. Bertram moved to issue a standard Order of Conditions based on the planting plan and the fence being moved. Mr. Luck seconded and the commission approved unanimously.

169 Townsend Harbor Road ~ Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws there will be a public meeting on a Request for Determination of Applicability filed by Patrick J. Murphy. The proposed project is to remove two oak trees that are diseased and dangerous.

Mr. Murphy was present to represent himself. He described the property and the dam on the property. He noted that there were two oak trees one on each side of the dam to be removed and replace with a maple also, amend for a third oak tree based on the commission site walk. He penciled in the amendment on the plan and signed the amendment of the plan. Mr. Bertram asked about potential impacts to the dike by the removal. The Chair explained that site examination indicated that there would be no impact to the dike by the removal. Commissioner Rabbitt reviewed another area of trees with a double trunk. It was decided by the applicant he would just come back with a subsequent file instead of amending. Mr. Luck noted a concern that if we were to allow the three trees to be removed that there should be three used to replace it instead of one and expressed concern it could be moving backward.

Mr. Murphy explained that there was a lot of vegetation that was already there that has grown in. The Chair noted that one of the trees served no shading value and the soils weren't conducive to re-growth and that there may not be enough space to allow for successful re-growth. It was also discussed that it would not be stumped and flat cut to grade. Commissioner Luck noted that in the future we should examine tree for tree. The Commission seemed in agreement to examine that issue as sites arise. The applicant agreed to attempt to add a second tree. There were no questions by the public. Mr. Jones made a motion to issue a negative. Mr. Bertram seconded with the amendment to attempt to add a second tree which was accepted by Mr. Jones. The applicant voted unanimously to approve.

571 Chase Road ~ Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws there will be a public meeting on a Request for Determination of Applicability filed by Brian P. Pomerleau of P & S Truck & Part Inc. Chase Realty Trust. The proposed project will involve drilling a new well.

Mike Sherockman represented the applicant. He outlined the work and the discussions of a sediment pit to be added by the well driller. The representative indicated a willingness to add the sediment pit. It was examined by the commission as to the location of the wetland. They examined other maps and found the boundary outlined.

It was noted that the existing well was not a drinking supply and that the former was remedial action. It was noted that any filling on the property was done in the buffer zone only. Commissioner Bertram inquired if there should be a minimum distance to wetland. The Chair noted that it was going to be in existing lot and that we can note it cannot be in the tree line. It was also noted that there would be a sediment basin built as well. Mr. Rabbit wanted to ensure that the Board of Health has all of the same information. There were no comments from the public. Mr. Luck moved to issue a negative determination with the conditions that no work is done past the tree line and a sediment basin be built. Mr. Rabbitt seconded and the commission voted unanimously.

667 Reservoir Road ~ Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws there will be a public hearing on a Notice of Intent filed by Robert/Laurie Parsons. The proposed project is for construction of a driveway to a single family home.

Applicant was not present. It was established there was no date for the notification and it was rescheduled for December 2, 2015.

155 Reservoir Road, Lots 1-9 ~ Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws there will be a public hearing on a Notice of Intent filed by Steve Powell (Brian Marchetti of McCarty Engineering Inc. The proposed project includes the creation of 9 ANR Lots in Residence B. Each lot is planned to contain a single family residence, driveway, septic system and grading. Lots 1-7 impact the 200' Outer Riparian Zone, Lot 8 impacts the 100' Wetland Buffer Zone and Lot 9 Impacts the 200' ORZ AND THE 100' WBZ.

Brian Marchetti was present. The hearing was opened for general discussion. Peter McCaron was present and noted that there was some discussion with the forester originally indicated that there would likely be 5 years until development was allowed and wondered why the reverse. The Chair read in the record sections of the letter from 9/8/15.

Brian Marchetti noted that he spoke to the forester last week and the forester reiterated what was in the September 8 letter and noted that there were 1000 seedlings per acre of the entire lot. Mr. Marchetti indicated he has a follow up email from the forester. He will bring it in for the meeting on December 2, 2015.

Commissioner Jones noted that it was observed at an on-site inspection that there was a large amount of regeneration. Commissioner Rabbitt inquired as to any appeal mechanisms. Mr. Marro noted it was not a permit issued under a public hearing therefore there was no administrative appeal. Mr. Rabbit inquired as to the status of any no disturbance zones on the property. The disturbance was outlined by the engineer. It was noted that the total disturbance of the entire project. Kate McCarron of 42 Reservoir Road inquired as to the jurisdiction of wetland protection. The Chair outlined the wetland regulations for the resident. Mr. Marchetti outlined the project and relation to the wetlands. Commissioner Kennedy and the Chair outlined the jurisdictional buffer zone.

Commissioner Bertram wanted to clarify that this was informational gathering and we would open a more formal hearing on December 2, 2015

Rhonda Lisio of 151 Reservoir Road noted that the debris and access road would impact her property and feels that the development would impact her property re: flooding and sediment. She expressed concern that during construction some (3) of the driveways would be directed to her property. Mr. Marchetti noted that the development is graded to drain back from the road and not to the road. Residential development is at this time exempt if built one by one and if built all at once could be regulated by EPA regulations. The Chair inquired as to why the access road cannot be moved over to be more in line with the property boundaries. Mr. Marchetti noted that it would place the easement in the no touch zones and through the wetlands. The anti-segmentation portion of the by-law was outlined in response to a question about future development of the backland.

Mr. Luck inquired if the house footprints can be changed later. The response was yes however, it could not further impact the 50 foot no structure of increase impacts increased to the riparian zone without our permission.

The meeting was continued to December 2, 2015 by motion of Commissioner Bertram and a second by Commissioner Luck with a unanimous vote of the Commission.

MINUTES APPROVAL

10/7, 21, 24, 28, 11/4- for 10/7 Commissioner Bertram noted that the minutes should reflect that there was no vote taken on the snow riders agenda item with respect to annual meetings. It was suggested that a parenthetical reference indicating no vote. Mr. Luck noted that it should be added that Mr. Marro would work with 701 Reservoir Road and that the LCC suggested that Shady Point create and maintain a retention area adjacent to Shady Point where Easter brook enter the lake. He also noted that it be added that Mr. Rabbitt volunteered to serve on the storm water committee. Mr. Luck moved to approve the minutes of the seventh as amended. Mr. Bertram seconded and the commission voted unanimously.

21 – Mr. Luck noted one misspelling. Mr. Bertram moved to approve the minutes as amended with the attendees correction. Mr. Kennedy seconded and the commission voted unanimously.

28 – Mr. Bertram moved to approve the minutes. Mr. Luck seconded and commented that he wanted the portion of the motion added that the work could start with conservation commission risk. Mr. Bertram accepted the amended and the commission voted unanimously. It was noted that the grant was signed as of today and work could now start. The work will be scheduled and the commission updated.

11/4 – would be forthcoming.

NEW BUSINESS

Connecting Communities Along Our Trails ~ Tom Bertram ~ Commissioner Bertram noted that this organization approached him about participating in the hike and it was noted that Rob Verge previously hosted one with the MRTC. Mr. Bertram was considering starting on April 24, 2016 with the first hike and will update the commission on a proposed schedule. He will finish the schedule before thanksgiving and inform the commission.

Stillman ~ Forest Cutting Plan ~ ongoing from original plan.

ONGOING BUSINESS

107 Youngs Road – Field Change ~ Approved ~ Letter to be signed. Mr. Dwyer moved to approve the revised plan as a field change. Mr. Jones seconded and the Commission voted unanimously.

Resident Caretaker/Custodian Contract ~ Sign – 3 year contract ~ (Commissioner Jones recused and left

meeting room.) Commissioner Kennedy noted that the license holder should be coming in for quarterly meetings. The Chair noted that item would be placed quarterly on the agenda.

Forest Cutting Plans- Mrs. Carrier informed the commission she received a cutting plan for the Stillman's property.

Regulations and By Law ~ Outline suggested changes to Selectmen – Commissioner Bertram outlined the situation with the Selectmen regarding the items to be acted on. The Chair proposed the outlines show which parts of the by law versus regulations should be changed so that the regulations and by laws reflect each other. Commissioner Luck noted that the items of interest should include effects of people abutting all wetlands and not just the lake. After discussion, the Chair polled the commission and they unanimously voiced a preference to continue discussion using the bullet list format. Mr. Luck inquired as if the commission was not going to ask about the 30 and 50 foot no touch zone and the commission said they want to leave it alone and look at the language and the process of changing the regulations to allow it to be more inclusive.

Commission Education

Stormwater By Law- Ms. Carrier noted that there was a stormwater committee formulated by the Board of Selectmen and a representative from the commission will be on it. (Commissioner Rabbitt)

SIGNATURES ~ OoC(), CoC()

ANNOUNCEMENTS

MEETING SCHEDULE ~

PUBLIC COMMENT Shunette Shellem- 62 Reservoir Road expressed dismay due to the forestry activity under the forest practice act. Shunette expressed concern that the cutting plan is being used to go around the other regulations. She felt they should be held to the standards. The Chair noted that the commission has the same concerns and noted it was out of our jurisdiction. While the plan is active then they cannot develop. The plan is found to be cutting for the purpose of building then it could be voided. However there is a letter dated September 8, 2015 that the forester signed off on compliance and the chair read from the letter. Shunette indicated that she would like to see less development. She felt the forester regulating the original permit indicated that he wrote the compliance letter under duress. The Chair indicated that there was no information relative to that assertion. He further answered her questions regarding the specifics of ANR lots and relation to the wetland protection act and local by-law.

COMMISSION COMMENT ~ Commissioner Rabbit inquired as to the disposition of ongoing enforcement matters. Commissioner Bertram requested that they be placed on the next agenda for updates.

ADJOURNMENT ~ 10:45 PM